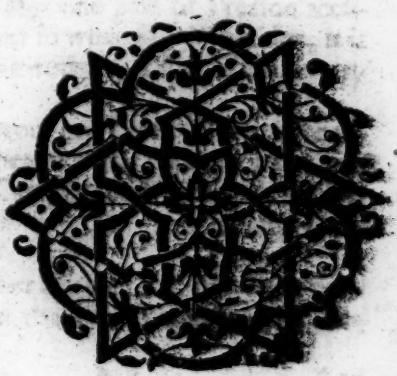
The Conclusion
OF
THE EARLE OF
STRAFFORDS
DEFENCE,
The twelfth of April,
1641.



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THE CONCLVSION of the Earle of Straffords DEFENCE,

The twelfth of April, 1641.

MY Lords, there yet remaines another treason, that I should bee guiltie of; the indeavouring to subvert the fundamentall Lawes of the Land, that they should now be Treason together, that is not Treason in any one part of Treason accumulative, that so when all will not doe, it is woven up with others, it should seeme very strange.

Under favour my Lords, I doe not conceive that there is either Statute Law, nor Common-Law, that doth declare the endeavouring to subvert the fundamentall Lawes to be high Treason.

For neither Statute Law, nor Common-Law written, that ever I could heare of, declareth it so.

And yet I have been diligent to enquire, (as I beleeve you thinke is doth concerne me to doe.)

It is hard to bee questioned for life and honour, upon a Law that cannot be shewne.

There is a rule which I have learned from Sir *Edward Cooke*, *De non apparentibus & non existentibus eadem ratio*. (Iein) where hath this fire laine all this while, so many hundred of yeares without any smoake to discover it, till it thus burst forth to consume me and my children, extreme hard in my opinion, that punishment should precede promulgation, of Law punished by a Law subsequent to the Actes done.

Take it into your considerations: for certainly it is now better to bee under no law at all, but the will of men, then to conforme our selves under the protection of a Law as we thinke, and then bee punished for a crime that doth precede the Law: what man can be safe, if that be once admitted?

My Lords, it is hard in another respect, that there should bee no token set upon this offence, by which we should know it, no admonition by which we should be aware of it.

If a man passe downe the Thames in a Boat and it be split upon an Anchor, and no Booy being set as a token that there is an Anchor there

there, that party that owes the Anchor, by the Maritime Lawes, shall give satisfaction for the dammage done; but if it were marked out, I must come upon my owne perill.

Now where is the marke upon this crime? Where is the token this is high treason?

If it be under water, and not above water, no humane providence can avail nor prevent my destruction.

Lay aside all humane wisedome, and let us rest upon divine Revelation, if you will condemne before you forwarne of the danger.

Oh my Lords! may your Lordships bee pleased to give that regard unto the Peerage of England, as never to suffer our selves to be put on those nice points upon such constructive interpretations; and these are where Lawes are not cleare, or knowne. If there must be a tryall of wits, I doe most humbly beseech you the subject and matter may bee in somewhat else then the lives and honours of Peeres.

My Lords, wee finde, that in the primitive times, in the progression of the plaine Doctrine of the Apostles, they brought the Bookes of curious Artes, and burned them. And so likewise, as I doe conceive, it will be wisedome and providence in your Lordships, for your

posterity, and the whole Kingdome, to cast from you into the fire these bloudy and most mysterious Volumes of constructive and Arbitrary Treason, and to betake your selves to the plaine Letter of the Law and Statute, that telleth us where the crime is, and by telling what is, and what is not, shewes us how to avoid it. And let us not be ambitious, to be more wise and learned in the killing Arts, then our forefathers were.

It is now full two hundred and forty yeares since ever any man was touched for this alledged crime (to this height) before my self, we have lived happily to our selves at home, and we have lived gloriously to the world abroad.

Let us rest contented with that which our fathers left us, and not awaken those sleepy Lyons to our owne destructions; by raking up a few musty records that have layen so many ages by the walls, quite forgotten and neglected.

May your Lordships be Nobly pleased, to adde this to those other misfortunes befallen me for my sins, not for my Treasons; that a president should not be derived from me of that disadvantage (as this will be in the consequent to the whole Kingdome) I beseech you seriously to consider it, and let not my parti-

particular case bee so looked on as you doe; though you wound me in my interest in the Common-wealth, and therefore those Gentlemen say, that they speake for the Common-wealth, yet in this particular I indeed speake for it, and the inconveniences and mischiefes that will heavily fall upon us; for as it is in the first of *Henry* the fourth, no man will after know what to doe, or say for feare.

Doe not put my Lords so great difficulties upon the Ministers of state, that men of wisedome, honour, and vertue may not with chearefulnesse and safety, be imployed for the publike; if you weigh and measure them by graines and scruples, the publike affaires of the Kingdome will be laid waste, and no man will meddle with them, that hath honours, issues, or any fortunes to lose.

My Lords, I have now troubled you longer then I should have done, were it not for the interest of those deare pledges a Saint in heaven hath left me; I should bee loath my Lords, (there he stopped.)

What I forfeit for my selfe it is nothing, but that my indiscretion should forfeit for my child, it even woundeth me deepe to the very soule.

You will pardon my infirmity, something I should have said, but I am not able, (and sighed).

sighed) therefore let it passe.

And now my Lords, I have beene, by the blessings of Almighty God, taught, that the afflictions of this life present, are not to bee compared to the eternall weight of glory that shall be revealed to us hereafter.

And so my Lords, even so with tranquility of minde, I doe submit my selfe freely and clearely to your Lordships judgements; and whether that righteous judgement shall be to life or death,

Te Deum laudamus, te Dominum confitemur.